



State Board of Professional Engineers and Land Surveyors

Minutes of April 20, 2000

PUBLIC SESSION

CALL TO ORDER

The meeting of the State Board of Professional Engineers and Land Surveyors was called to order by the Board President Robert C. Bogart at 9:00 AM in the Hudson Conference Room, Sixth Floor, 124 Halsey Street, Newark, New Jersey. All parties were duly notified of the time, date and place and all pertinent material has been provided.

SUNSHINE LAW ANNOUNCEMENT

President Bogart read the statement required by Chapter 231, Laws of 1975 known as the Open Public Meeting Act, and announced that notice of this meeting was prepared in the office of the Board and mailed to the Secretary of State, the Star-Ledger, the Courier Post and the Bergen Record.

ROLL CALL

BM's present:

Robert Bogart	James Kelly (arrived 12:00 pm)
Albert Faraldi	Theodore Cassera (arrived 9:30 pm)
Richard Frantz	Robert Marshall
Rishi Raj	Louis Raimondi
Edward Vernick (departed 12:30 pm)	

BM absent:

Pravin Patel

Others present:

Arthur Russo, Executive Director, William Mandeville, Management Assistant, Joseph Grabowy, Management Assistant, Sadiqa Smith, Recording Secretary, Yolanda Winston, Board Staff and Deputy Attorney General Olga E. Bradford.

COMMITTEE REPORTS

Special Committee Reports

Election of Officers

BM Frantz reported that, at the April 6, 2000 Public Session meeting, the Board unanimously voted to accept the following slate of officers proposed by the Nominating Committee for the May 1, 2000 to April 30, 2001 term.

Albert Faraldi - President
James Kelly - Vice-President

On a motion by BM Raimondi, seconded by Pres. Bogart, the Board unanimously voted to elect the officers as nominated.

On behalf of the Board, President Bogart congratulated the newly elected officers.

REPORT OF THE EXECUTIVE DIRECTOR

April 2000 examinations

ED Russo reported that the April 2000 examinations went well, with only a few glitches.

ED Russo and BM Frantz visited the northern site at the Spa at the Great Gorge Resort, Route 94 North, Vernon New Jersey during the exam. VP Faraldi and BM Marshall visited the southern site located at the West Trenton Volunteer Fire Company Ballroom, 40 West Upper Ferry Road, West Trenton, New Jersey during the exam.

MOVE TO EXECUTIVE SESSION

On a motion by BM Vernick, seconded by BM Frantz, the Board unanimously voted to move into Executive Session for the purpose of completing the Executive Session agenda.

RETURN TO PUBLIC SESSION

In accordance with a motion contained in Executive Session minutes, the Board unanimously voted to return to Public Session for the purpose of completing the Public Session agenda.

Incoming Correspondence

Darlene Kane, Administration (3/14/00)
Re: FY2000 Budget Report

The Board noted the FY2000 Budget Report for the record.

Certificate Award Ceremony - October 1999 Examinees

ED Russo reported that the Certificate Awards Ceremony will be held tonight at the Holiday Inn, Jamesburg, NJ. Five BMs are scheduled to attend. Speakers for the ceremony will include DAG Bradford, VP Faraldi and VP Kelly. All arrangements have been made with the Holiday Inn.

ANNUAL MEETING

BM Marshall reported that invitations to the Annual Meeting have been mailed to present and past BMs and that responses are already being received. This years Annual Meeting will be held on May 5, 2000 at the Lobster House Restaurant, Cape May, NJ.

REPORT OF DAG

Alan Rubin, PE - #8232

DAG Bradford reported that Mr. Rubin was sent a Provisional Order of Discipline, and in response, has requested that the Board consider reducing his penalty due to unique circumstances. Previously, his employer had paid his renewal fees for years, and it was an oversight on his part that allowed his renewal fees to go unpaid.

The Board discussed this matter and denied Mr. Rubin's request to reduce the penalty preliminarily imposed in the Provisional Order of Discipline.

On a motion by VP Faraldi, seconded by BM Cassera, the Board unanimously voted to finalize the Provisional Order of Discipline, as written, with no changes.

Steve Zimmerman, PLS - #27515

DAG Bradford submitted a report, dated March 3, 2000, in which she stated that the Board directed the issuance of a Provisional Order of Discipline ("POD") in the above captioned matter following its determination that Steven Zimmerman, PLS, failed to comply with continuing competency requirements for the 1998-2000 licensure period. The POD was issued to Mr. Zimmerman on or about February 15, 2000 to which he responded on February 26, 2000.

The Board's review of this letter revealed that Mr. Zimmerman again argues, among other things, that a forty (40) hour OSHA course taken in May 1997 satisfies the Board's continuing competency requirement. The POD included preliminarily imposed civil penalties, totaling \$1,000.00.

The Board discussed and reviewed Mr. Zimmerman's response to the POD. The Board affirmed its initial determination that the OSHA course did not satisfy the continuing competency mandates at this time.

On a motion by BM Raimondi, seconded by VP Faraldi, the Board unanimously voted to finalize the Provisional Order of Discipline, as originally written, with no changes.

Edward S. Clemmo, PLS - #33097

DAG Bradford submitted a report, dated March 8, 2000, in which she stated that the Board directed that a Provisional Order of Discipline ("POD") be issued to the licensee following its determination that Edward S. Clemmo, PLS, had failed to satisfy the continuing competency requirements for the 1998-2000 licensure renewal period. Specifically, the Board found, preliminarily, that Mr. Clemmo had not completed twenty-four professional development hours between May 1, 1996 and April 1998.

The POD which was issued on or about December 1999 was responded to by Mr. Clemmo in a letter dated January 12, 2000.

The Board reviewed and discussed Mr. Clemmo response to the POD.

On a motion by VP Faraldi, seconded by BM Raimondi, the Board unanimously voted to finalize the Provisional Order of Discipline as originally written, with no changes.

Barry W. Muller, PE - #36531

DAG Bradford submitted a report, dated March 22, 2000, in which she requested that the Board consider the documentation which had been submitted in this matter by Mr. Miller in order to provide her with further direction.

DAG Bradford prepared a Provisional Order of Discipline ("POD") on behalf of the Board. Following its review of information which revealed that Barry W. Muller, PE, had been convicted on or about March 1998 of sexual assault, the Board directed that a POD preliminarily revoking his engineering license be issued. Specifically, Mr. Muller pled guilty, on diverse dates between August 1993 and August 1997, to sexual assault upon the victim by committing acts of sexual contact. On August 14, 1998, Mr. Muller was sentenced, as a third degree offender, to the following: 1)

imprisonment for a period of four (4) years at the Adult Diagnostic and Treatment Center at Avenel; 2) fines and penalties and 3) mandatory Megan's Law registration.

In response to the POD, Mr. Muller has submitted documents seeking a mitigation of the Board imposed penalties. Mainly, Mr. Muller argues that revocation of his engineering license is too harsh a penalty since he is the sole support of his family and his invalid mother. His attorney requested that the Board consider a suspension rather than revocation of his license.

The Board reviewed and discussed all submitted documentation. The Board concluded that Mr. Muller's license will be suspended retroactively from the time he was incarcerated and for the terms of his probation. In addition, he must appear before the Board to apply for reinstatement of his license. Finally, he must comply with all the criminal conditions imposed by the court.

On a motion by BM Raimondi, seconded by BM Frantz, the Board unanimously voted to modify the Provisional Order of Discipline to include the preceding conditions.

APPROVAL/ DENIAL OF APPLICATIONS FOR LICENSURE

The Board reviewed the April 6, 2000 Examination/Comity Applications Report and, of the reported applications, voted to approve 4 exam and to deny 1 exam and 5 comity applications. (list attached).

On a motion by VP Faraldi, seconded by BM Vernick, the Board unanimously voted to accept the list of approved/denied applications for licensure.

MOVE TO EXECUTIVE SESSION

On a motion by VP Faraldi, seconded by BM Frantz, the Board unanimously voted to move into Executive Session for the purpose of completing the Executive Session agenda.

RETURN TO PUBLIC SESSION

In accordance with a motion contained in Executive Session minutes, the Board unanimously voted to return to Public Session for the purpose of completing the Public Session agenda.

ADJOURNMENT

On a motion by BM Frantz, seconded by VP Faraldi, the Board unanimously voted to adjourn at 2:45 pm.

Approved by:

Robert C. Bogart, PE, PLS
President

Arthur Russo
Executive Director
